



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

MAR 07 2008

CEMP-CR/CECC-R

MEMORANDUM FOR SEE DISTRIBUTION

**SUBJECT: Implementation Guidance for Section 3183 of WRDA 2007 –
Extinguishment of Reversionary Interests and Use Restrictions**

1. Section 3183 of WRDA 2007 provides for the extinguishment of reversionary interests and use restrictions at projects and locations within LRD, NWD and SWD. Nothing in this section affects the remaining rights and interests of the Corps for authorized purposes at any of the listed projects. In addition, Section 3183(c) authorizes a conveyance of land to the City of Lowell, Oregon.

2. With the exception of Section 3183(c), this provision is silent as to who pays for the administrative costs required to effectuate the extinguishment of reversionary interests and use restrictions. Generally, the Army's policy is that an entity benefitting from a real estate transaction pays for the reasonable administrative costs associated with the transaction. The administrative costs to extinguish these reversionary interests and use restrictions in this section should be nominal. Accordingly, for all actions in this section other than Section 3183(c), if the costs to process payment by the non-Federal entity exceed the costs to complete the action then Districts should pay the costs using project funds currently available within the District or MSC. However, if the costs to process payment by the non-Federal entity are less than the reasonable administrative costs required to complete the transaction then the non-Federal entity receiving the benefit should pay the costs, which may be paid either in advance or as a reimbursement pursuant to 10 USC 2695.

3. The document used to effectuate the extinguishment of reversionary interests and use restrictions should be a release of interest or use restriction. A copy of a suggested release agreement that can be executed at the District level is enclosed for your consideration. The title of the document and form may vary by state. The conveyance in Section 3183(c) (2) will be by quitclaim deed and will require the signature and approval of the Deputy Assistant Secretary of the Army (Installations & Housing) in accordance with current procedures. Guidance by Division is provided below.

4. Great Lakes and Ohio River Division

Section 3183 (d) Old Hickory Lock and Dam, Cumberland River, Tennessee. The reversionary interests and use restrictions related to recreation and camping purposes are statutorily extinguished with regard to the referenced conveyance.

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5. Northwestern Division

a. **Section 3183 (a) Idaho**

The reversionary interests and use restrictions are statutorily extinguished for the deeds listed. Please note that the release of the restriction on human habitation or other building structure use only applies if the elevation of the property is above the standard project flood elevation.

b. **Section 3183 (c) Lowell, Oregon**

1). The Corps is authorized to release and extinguish the deed reservations for access and communication cables contained in the quitclaim deed dated January 26, 1965, and recorded February 15, 1965, for land owned by the City of Lowell, Oregon as described in the quitclaim deed dated April 11, 1991. All referenced deeds may be found in the land records of Lane County, Oregon.

2). The Corps is authorized to release and extinguish the deed reservations for access and communication cables contained in the quitclaim deed dated January 26, 1965, and recorded February 15, 1965, over land owned by Lane County, Oregon, within the city limits of Lowell, Oregon to accommodate an affordable housing project. However, the District Engineer may require, at no cost to the United States, the alteration or relocation of any existing facilities, utilities, roads or similar improvements on such lands and the right-of-way for such facilities, utilities, roads or similar improvements as a precondition of any release or extinguishment of the deed reservations for land owned by Lane County, Oregon, within the city limits of Lowell, Oregon. All referenced deeds may be found in the land records of Lane County, Oregon.

3). The Corps is authorized to convey for fair market value, the parcel of land situated in the City of Lowell, Oregon, consisting of the strip of federally owned land located northeast of West Boundary Road between Hyland Lane and the City of Lowell's eastward city limits.

4). All administrative costs incurred by the United States to execute the release and extinguishment of the deed reservations referred to in this section, as well as the costs of the conveyance, shall be paid by the City of Lowell, Oregon.

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c. Section 3183 (e) Lower Granite Pool, Washington

The reversionary interests and use restrictions are statutorily extinguished for the deeds listed in this section. Please note that the release of the restriction on human habitation or other building structure use applies only if the elevation of the property is above the standard project flood elevation.

d. Section 3183 (f) Port of Pasco, Washington

1). The flowage easement and use restrictions are statutorily extinguished with regard to the deed referenced in Section 3183(f)(3)(A) if elevation of the property is above the standard project flood elevation. In addition, use of fill material to raise the property above the standard project flood elevation is authorized except in any area for which a permit under section 404 of the Federal Water Pollution Control Act is required.

2). The flowage easement is statutorily extinguished with regard to the deed referenced in Section 3183(f) (3)(B) if the elevation of the property is above the standard project flood elevation.

6. Southwestern Division

Section 3183(b) Lake Texoma, Oklahoma. Any reversionary interest relating to public park and recreation is statutorily extinguished with regard to the conveyance referred to in Section 3183(b)(1). A release of a reversionary interest in this section shall not affect any other right of the United States in any deed of conveyance pursuant to the Act entitled "An Act to authorize the sale of certain lands to the State of Oklahoma," Public Law 64, Chapter 118, 67 Stat 63.

7. Any questions regarding the implementation of Section 3183 of WRDA 2007 or this guidance should be addressed to Laura Ouverson Norman, CECC-R, at 202-761-0023.

FOR THE COMMANDER:

Encls



JOSEPH F. CALCARA
Chief, Real Estate Community of Practice
Military Programs Directorate

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DISTRIBUTION:

COMMANDER,

GREAT LAKES AND OHIO RIVER DIVISION (CELRD-PDS-R and CECC-LRD)

NORTHWESTERN DIVISION (CENWD-PDS-R and CECC-NWD)

SOUTHWESTERN DIVISION (CESWD-PDS-R and CECC-SWD)

[Editorial Note: The style of document may vary by state recording requirements and negotiations with the Title Company and examples of proposed titles are shown below. In initial drafts and the completed final version of the document, delete any Editorial Notes, notes contained in [], or blanks which show a required insertion of a date, name or title].

RELEASE OF REVERTER
INSTRUMENT OF RELEASE
DOCUMENT OF DISCLAIMER OF INTEREST
AFFIDAVIT OF REVERTER EVENT AND RELEASE
NOTICE OF REVERTER EVENT AND RELEASE]

THIS *[type of document]*, by and between the UNITED STATES OF AMERICA (hereinafter referred to as the “Releasor”), acting by and through the Chief of Real Estate, U.S. Army Engineer District, *[Name]*, whose mailing address is _____ *[mailing address]*, pursuant to a delegation of authority from the Secretary of the Army, under the authority of the Act of Congress dated November 8, 2007, Public Law 110-114, the Water Resources Development Act of 2007, Section 3183 (hereinafter referred to as WRDA 2007); and _____ *[name of Releasee]* (hereinafter referred to as the “Releasee”), a _____ *[type of entity]* whose mailing address is _____ *[mailing address]*. *[Editorial Note: If there are multiple Releasees, each individual Releasee should be identified in the introductory paragraph and the term “Releasees” should be used throughout the document .]*

WHEREAS, the United States of America, acting by and through Army officials, *[disposed]* of land or interest in land by deed dated _____, and recorded in the real property records of _____ County, _____, on *[date]*, at *[deed book/page or other designation]*; (hereinafter referred to as the “Deed”),

[Editorial Note: cite the specific language from the deed, describing the reversionary triggering event and/or use restrictions. The WHEREAS clauses should be tailored to the event]

Example

WHEREAS, Condition No. (____) of said Deed stated that “if the said property shall at any time cease to be used or maintained by the Grantee for public park and recreation uses, then title to the property hereby conveyed shall revert to the United States and the said United States shall thereupon re-enter into and upon the above granted property” and

WHEREAS, Condition No. (____) of said Deed stated _____ *[Describe reversionary interests and/or use restrictions]* then title to the property hereby conveyed shall revert to the said Grantor and

WHEREAS, in WRDA 2007, Congress extinguished the reversionary interests and use restrictions described in Condition(s) No. (____) of said Deed, and

NOW, THEREFORE, the Releasor *[Editorial Note: insert if there will be monetary consideration, otherwise delete: , for and in consideration of \$_____, cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged,]* does hereby release and dispose unto the Releasee, its successors and assigns, all its right, title, and interest in the land situated, lying and being in the County of _____, in the Commonwealth/State of _____, being the same land or interest in land that was conveyed by Deed dated _____, and recorded in the real property records of _____ County, _____, on *[date]*, at *[deed book/page or*

other designation], described in Exhibit A, incorporated herein by reference *[or included in the instrument if required by state law]*.

Releasee, or its predecessors or assigns, having been in possession of the property, hereby accepts full ownership of the property "AS IS" and to the extent authorized by law, the Releasee, its successors and assigns, covenant and agree to indemnify and hold harmless the Releasor, its officers, agents, and employees from any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of Releasee's ownership.

IN WITNESS WHEREOF, the said United States of America has caused this instrument to be executed in its name and sealed on its behalf by the duly authorized Chief of Real Estate, U.S. Army Corps of Engineers District, _____, this ____ day of _____, 200__.

UNITED STATES OF AMERICA

By: _____
[typed name]
Chief of Real Estate
U.S. Army Corps of Engineers District,

STATE/Commonwealth of _____)
) ss
COUNTY OF _____)

I, the undersigned, a Notary Public in and for the above noted jurisdiction, do certify that, on the day shown above, personally appeared before me, [typed name of Chief], Chief of Real Estate, U.S. Army Corps of Engineers District, _____, personally known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the forgoing document, who acknowledged that the signature on the document was voluntarily affixed by him for the purposes therein, on this date, and acknowledged the same for and on behalf of the UNITED STATES OF AMERICA.

[Editorial Note: The notary should comply with local requirements. blank.]

Notary Public

Notary Registration No.:

My Commission Expires:

IN WITNESS WHEREOF, the said _____ hereby accept the terms and conditions found herein and caused this instrument to be signed and sealed by the and through its duly authorized _____ on behalf of [Releasee], this ____ day of _____, 200__.

[Releasee]

By: _____

STATE/Commonwealth of _____)

)ss

COUNTY OF _____)

I, the undersigned, a Notary Public in and for the above noted jurisdiction, whose commission expires as set forth below, do hereby certify that this day personally appeared before me, _____, whose name is signed to the foregoing instrument and who acknowledged the foregoing instrument to be his free act and deed, on the date shown.

Notary Public

My commission expires:

EXHIBIT “A”

Legal Description for [Parcel/Land]: